Colonel Robert H. Reardon, Jr.
U.S. Army Corps of Engineers
Norfolk District
803 Front Street
Norfolk, Virginia 23510-1096

Attn: William McGlaun
Regulatory Branch

Re: James Marsh, Permit Application No. 96-1355, Northumberland County, Virginia

Dear Colonel Reardon:

The U.S. Fish and Wildlife Service has reviewed the Department of the Army permit application, 96-1355, submitted by James E. Marsh to construct a private pier and mooring piles in Northumberland County, Virginia. Your December 5, 1996 request for formal consultation on this permit application was received on December 9, 1996. This document represents the Service's biological opinion on the effects of those actions on the bald eagle (*Haliaeetus leucocephalus*) in accordance with Section 7 of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531 et seq.). A complete administrative record of this consultation is on file in this office.

I. CONSULTATION HISTORY

The consultation history is provided in Appendix A.

II. BIOLOGICAL OPINION

DESCRIPTION OF PROPOSED ACTION

The applicant is proposing to construct an 80-foot long private open-pile pier with an "L" head and 4 free-standing mooring piles on the southern branch of Owens Pond in Northumberland County, Virginia (Figure 1).

RANGEWIDE STATUS OF THE SPECIES

Unless otherwise noted, the information in this section was taken from Virginia Department of Game and Inland Fisheries (1994) and Watts *et al*. (1994).

Life History

The bald eagle is a large bird of prey with a wing span of 6.5 feet. It is found primarily near coasts, rivers, and lakes of North America. Although bald eagles are known for their white heads and tails, immature and juvenile birds are mainly brown. Bald eagles do not begin to breed until 4-5 years of age, the same time that they develop their white head and tail. Adult birds mate for life, establishing nesting territories that they return to each year. Nesting pairs may remain near their territory year round, particularly towards the southern range of the species. In Virginia, nest building and repair usually begins in November and December. The one- to three-egg clutch is laid between late January and late March. However, eggs can be laid as late as the end of April if an earlier nesting attempt fails. Most eggs hatch between early March and early May and eaglets remain in the nest for 11 to 12 weeks. Sometimes nestlings will fall or be blown out of the nest before they are ready to fly and the adults will continue to drop food to the young as long as they are on the ground. Most young are capable of sustained flight by late July, but remain dependent on the parents and in the general vicinity of the nest for several more weeks. After this time, young may wander throughout the Chesapeake Bay region and beyond.

Bald eagles in Virginia and throughout the Chesapeake Bay region nest in live trees, usually one of the tallest trees in a woodlot, close to water, and away from development or intensive human activity. The average height of a nest tree is 90 feet with the nest located in a main crotch about 12 feet from top of the tree. The average diameter of a nest tree is 22 inches. A majority of nests (70%) are located in loblolly pines, many of which are seed trees left during previous timber cuts. Other species of trees used for nesting include tulip poplar, American beech, white and red oak, and Virginia pine. The nest itself is built of large sticks, but other vegetation such as corn stalks, fresh twigs and leaves, and clumps of grass are often added to the top of the nest. The average size of the bowl-shaped nest is three feet deep and five feet across the top. Some pairs will use the same nest every year while others alternate year to year between two or three nests in their breeding territory. Although it is not uncommon for breeding pairs to build new nests from time to time, some nests have been in use for over 25 years.

Bald eagles nests are most often located in open mature forest stands usually at least 20 acres in size, within 0.5 miles of both wetlands and open water. A majority of the time there is a break in the forest within 110 yards of the nest such as agricultural fields, non-forested wetlands, timber cuts, or bodies of water. In the coastal plain region of Virginia, eagles are known to nest along the ocean, reservoirs, and inland bays, but the majority nest along the shoreline of the Chesapeake Bay and its four major tributaries (Potomac, Rappahannock, York, and James Rivers). Nests are often found near agricultural fields, but eagles tend to nest further away from other types of human development and activity. This includes roads, residential and urban development, shoreline development, and industrial sites. Breeding eagles are most sensitive to human disturbance when they are in the early stages of nesting. Disruptive activities that occur when pairs are courting, building nests, laying eggs, or incubating are most likely to result in nest failure.

In addition to the resident breeding population, Virginia supports several areas where sub-adults and non-breeding adults congregate. Immature and non-mated eagles range widely, migrating north and south from their nest territories. Northern pairs also migrate south during the winter when rivers and lakes freeze. These birds tend to congregate in both summer and winter concentration areas, locations where feeding opportunities are good and human disturbance is minimal. In Virginia, summer eagle concentrations tend to be much larger than winter concentrations. Although eagles from Virginia account for a portion of these birds, many come from outside the state. Increasing evidence suggests that birds from both the southeastern and northeastern states converge on these sites in Virginia during mid-summer. Protection and management of theses areas may be more important to the continued recovery of the bald eagle in Virginia and throughout the East Coast than any other habitat.

Eagles spend most of their foraging time surveying the landscape for prey from a prominent perch along the shorelines of rivers, marshes, and bays. Trees used as foraging perches are very similar to those used for nesting. Perch trees are large with open crowns to allow unobstructed flight and access to limbs. Both pine and deciduous trees (live or dead) may be used for foraging perches. Because eagles often take fish on or near the surface, favorite perches are typically along shorelines adjacent to shallow water. Bald eagles are opportunistic foragers, preying on fish, birds, and small mammals, as well as scavenging carrion. In the summer, fish are the primary component of the diet. Eagles in Virginia feed on shad, catfish, carp, menhaden, perch, and eels depending on their seasonal availability. In the fall and winter, eagles shift their foraging to waterfowl and supplement their diet to a greater extent with carrion.

Status of the Species Within its Range

Historically, bald eagles were plentiful along major river systems and coastal areas throughout eastern Virginia. However, habitat loss associated with human settlement, and later the use of persistent pesticides (such as DDT) for crop management, resulted in a dramatic decline in the population. By the late 1960s, most breeding populations had been decimated by eggshell thinning and associated low productivity. Since the nationwide ban on most persistent pesticides, populations have experienced

gradual recovery in both productivity and total numbers. In Virginia, the breeding population has steadily increased from an estimated low of approximately 32 pairs in the late 1960s to 180 pairs in 1996.

In the mid-1970s, the Service divided the bald eagles of the lower 48 states into five recovery regions based on geographic location. A recovery plan was prepared for each region by separate recovery teams. The five recovery regions are the Chesapeake Bay, Pacific, Southeastern, Northern States, and Southwestern. On August 11, 1995, all bald eagle populations in the lower 48 states were reclassified, as necessary, from endangered to threatened (50 CFR Part 17 36000-36010).

Threats to the Species

Although the bald eagle population has rebounded over the past 15-20 years, current patterns of habitat loss threaten to prematurely halt or even reverse this recovery. Shoreline development throughout coastal Virginia is rapidly reducing available breeding habitat and poses the single greatest threat to the eagle population. Nesting, roosting, and foraging habitat is being lost to shoreline development for housing, business, industry, recreational facilities, public utilities, and transportation. Conversion of woodlands to agricultural fields and timber harvesting is also resulting in the loss of eagle habitat. As the human population along these shoreline areas continues to grow, more undisturbed wooded habitat used by bald eagles will be permanently altered. The continued increase in water-related activities, such as recreational boating, will also decrease the number of areas that can be used by eagles. Buehler (1991a) found that in the northern Chesapeake Bay of Maryland, 76% of shoreline areas may now be unsuitable for eagle use because of the presence of development within 1,640 feet of the shoreline. Up to an additional 10% of the shoreline was found to be unsuitable at times because of boat and pedestrian traffic. Bald eagles in Virginia will survive and reach sustainable numbers only if there is adequate habitat for nesting, roosting, and foraging free from human disturbance. Management to preserve and protect these shoreline areas is essential to the continued growth and recovery of the Chesapeake Bay's nesting, summering and wintering bald eagle population.

Habitat alterations such as construction, land clearing, and timber cutting can destroy eagle habitat and make it unsuitable for bald eagle use indefinitely. Human activities such as recreational boating, other shoreline activities, off-road vehicles, farming, and hunting can disturb eagles if the activities are too close to the nest tree. Continued disturbance, or even a single disturbance during the most sensitive portions of the breeding season, can cause eagles to abandon a breeding territory temporarily or permanently. An incubating adult may flush from the nest if a person wanders too close to the nest tree or if other activities such as timber cutting are within sight of the eagles on the nest. Eggs exposed too long to the cold may fail to hatch and the adults will abandon the nest. One-week to four-week old nestlings are also vulnerable to the cold if the adults are kept away from the nest and cannot provide warmth to the young. During the later part of the season, when there are seven-week-old or older nestlings, human activity too close to the

nest may cause the young to jump from the nest where they may not survive an extended period unprotected on the ground.

Human activity resulting in even temporary disruption of the bird's environment represents a major source of potential disturbance in many eagle populations (McGarigal et al. 1991). Human disturbance in perching areas can interrupt feeding and cause birds to relocate (Fraser 1988). Buehler et al. (1991b) seldom observed eagles on the northern Chesapeake Bay within 1,640 feet of human activity and found that the birds rarely used developed areas or areas frequented by people on foot. During the summer, birds on the northern Chesapeake Bay flush, on average, when humans get within 577 feet (Buehler et al. 1991b). Once birds are disturbed, they do not return to the area until several hours after the disturbance has occurred and only when the disturbance no longer persists (Stalmaster and Newman 1978; M.A. Byrd, College of William and Mary, pers. comm. 1989). Disturbance may result in increased energy expenditures due to avoidance flights and decreased energy intake due to interference with feeding activity (Knight and Knight 1984).

Boating activity can adversely impact eagles because it disrupts feeding activity and affects large areas in short periods of time (Knight and Knight 1984). McGarigal et al. (1991) found that eagles usually avoided an area within 656 to 2,952 feet of a single stationary experimental boat, with an average avoidance distance of 1,300 feet. Moving boats disrupt eagles as well as stationary boats. Buehler et al. (1991b) found that on the northern Chesapeake Bay, eagles were flushed by an approaching boat at an average distance of 575 feet. Byrd (pers. comm. 1989) has observed that when eagles are flushed by a boat from perch sites along the James River, they usually fly inland and cease foraging for at least several hours.

Chemical poisoning and shooting are now less of a threat than in past years, but continue to cause the loss of eagles. With increased petrochemical transport activities in the Chesapeake Bay region, the potential exists for eagles to come into contact with oil resulting from spills.

Recovery Goals and Accomplishments

To delist the Chesapeake Bay bald eagle recovery region, the following to goals must be met:

Goal 1 - A nesting population of 300-400 pairs with an average productivity of 1.1 eaglets per active nest, sustained over 5 years. This goal was met in 1992 - 1995.

Goal 2 - Permanent protection of sufficient nesting habitat to support 300-400 bald eagle pairs, and enough roosting habitat to accommodate population levels commensurate with increases throughout the Atlantic region resulting from increased productivity. This goal has not been met; there is very little permanent protection of nesting or roosting habitat within the Chesapeake Bay region. Over 83% of the bald eagle nests in Virginia are located on private and corporate lands.

ENVIRONMENTAL BASELINE

As defined in 50 CFR 402.02 "action" means all activities or programs of any kind authorized, funded, or carried out, in whole or in part, by Federal agencies in the United States or upon the high seas. The "action area" is defined as all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action. The direct and indirect effects of the actions and activities resulting from the Federal action must be considered in conjunction with the effects of other past and present Federal, State, or private activities, as well as the cumulative effects of reasonably certain future State or private activities within the action area. The Service has determined that the action area for this project is the area within 780 linear feet of the bald eagle nest. Since this is the area within which human disturbance and structures are likely to adversely affect the eagle.

Status of the Species in the Action Area - The proposed project is located within the Twin Harbors development. The area was purchased by Virginia Land and Forest Development Corporation (now known as Bluegreen Corporation) within the past 2 to 3 years and subdivided into forested inland and waterfront lots. This development is 124 acres in size and was divided into approximately 96 lots, each greater than 1 acre. The development is located on the peninsula between the two forks of Owens Pond. There have been two eagle nests in the action area (Figure 1). Nest ND 92-02 was first discovered by VDGIF in 1992. In 1992 and 1993, two young were produced. This nest has not been active since 1993 and the nest structure no longer exists. The second eagle nest in the action area, ND 95-02, was first discovered by VDGIF in 1995. Two young were produced in 1995. The nest was not active during the 1995/1996 or 1996/1997 nesting season. The Service and VDGIF have implemented guidelines to protect the bald eagle in Virginia. These guidelines include protection of nests and their associated management zones for three inactive nesting seasons (until April 1 of the third inactive year), after the last season in which the nest was occupied.

In 1995, the Service and VDGIF met with Virginia Land and Forest to insure that bald eagle nest ND 95-02 was protected. At that time, nest ND 92-02 was no longer in existence. The Service and VDGIF received assurance from the developer that no land clearing or construction would occur within 100 feet landward of the shoreline on the southern side of the peninsula. A Corps permit (95-5333) was issued for this development. In 1996, the Corps issued a permit (96-0668) to the developer to install 2,200 feet of riprap and a community pier and boat ramp in the Twin Harbors development. The Service and VDGIF worked extensively with the developer to insure that the riprap, pier, and boat ramp would not adversely affect the bald eagle or the northeastern beach tiger beetle (*Cicindela dorsalis dorsalis*), another federally listed threatened species. As a result, time-of-year restrictions on construction and installation of pilings/buoys around the eagle nest were made special conditions of the Corps' permit.

Nest ND 95-02 is 273 feet landward of MLW on the southernmost side of Owens Pond. From MLW on the southernmost side of Owens Pond to MHW on the applicant's property is 407 feet. The distance from the nest tree to MHW on the applicant's lot is 680 feet. The applicant's lot is

482 feet deep (W. McGlaun, Corps, pers. comm. 1997). The applicant's lot is forested and no clearing or construction has occurred. Because the Service, VDGIF, and the developer previously agreed that no vegetation clearing or construction would occur with a 100-foot buffer along the shoreline, any dwellings, sheds, garages, etc. constructed by the applicant will be at least 780 from the bald eagle nest tree.

Effects of the Action - The direct effects of the action on bald eagles will include the disturbance created during construction of the pier and installation of the mooring piles. Construction will necessitate human activity, a considerable amount of noise, and use of heavy equipment. Depending on the season, these activities will disturb the birds during courtship, breeding, egg-laying, or caring for offspring. In addition, disturbance may occur during foraging attempts and perching. It is likely that during construction activities, birds will vacate the area. Depending on the season, this will result in abandonment of nest. The amount of available foraging and perching habitat may also be reduced. However, since other foraging habitat is available in the vicinity of the nest, this effect should be minor. In addition to disturbance from construction of the proposed facilities, the presence of the pier and mooring piles will result in functional habitat loss.

Indirect effects are defined as those that are caused by the proposed action and are later in time, but still are reasonably certain to occur (50 CFR 402.02). Indirect impacts to eagles will result from disturbance through human activity during normal use of the shoreline facilities and use of aquatic recreational vehicles such as boats. Anticipated uses of the pier and associated mooring piles include preparing aquatic recreational vehicles for launching, fishing, sun bathing, and swimming. These activities will result in disturbance to eagles as discussed above.

Boat traffic resulting from the proposed project will be disruptive to the eagles during nesting, perching, and foraging. As a boat or boats leave the applicant's property, the birds will be flushed and likely will fly some distance away. During days when a boat or boats leave and return to the proposed facilities several times, there is a high probability that eagles will be flushed multiple times, forcing them to abandon the nest for prolonged periods. This results in increased time spent scanning for boats while trying to forage, yielding a decrease in food intake and/or inability to forage after being forced inland from numerous disruptions. Reduced foraging by the nesting eagles and/or abandonment of the nest for prolonged periods could seriously impact the survival of their young, potentially resulting in death of the chicks.

Cumulative Effects - Cumulative effects include the effects of future State, local, or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to Section 7 of the ESA.

A residential subdivision (the second phase of Twin Harbors) located immediately adjacent to the eagle nest is in the preliminary planning phase. However, until the Service has discussed this project with the

developer, it is not known how or if this proposed development plan will affect the bald eagle. The Corps has stated that additional permit applications for waterfront structures on adjacent lots are anticipated. These projects will undergo separate Section 7 consultation. However, since it is likely that the construction of the currently proposed pier and mooring piles

will result in the abandonment of this eagle nest, future shoreline projects may not result in additional impacts.

CONCLUSION

After reviewing the current status of the bald eagle throughout its range and in the action area, the environmental baseline for the action area, the effects of the proposed action and the cumulative effects, it is the Service's biological opinion that the project, as proposed, is not likely to jeopardize the continued existence of the bald eagle. No critical habitat has been designated for this species, therefore, none will be affected.

III. INCIDENTAL TAKE STATEMENT

Sections 4(d) and 9 of the ESA, as amended, prohibit taking (harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct) of listed species of fish or wildlife without a special exemption. Harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns such as breeding, feeding, or sheltering. Harass is defined as actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns, which include, but are not limited to, breeding, feeding, or sheltering. Incidental take is any take of listed animal species that results from, but is not the purpose of, carrying out an otherwise lawful activity conducted by the Federal agency or applicant. Under the terms of Section 7(b)(4) and Section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered a prohibited taking provided that such taking is in compliance with the terms and conditions of this incidental take statement.

AMOUNT OR EXTENT OF TAKE

The pair of bald eagle using this nesting territory have produced two offspring each year that the nest was active. The proposed activities are likely to result in disuse of this nest. If the pair utilizing this breeding territory are unable to use this nest or are forced to abandon eggs/chicks and cannot successfully renest that same season, it is likely that two offspring will be lost. By the following nesting season, it is reasonable to assume that the pair will establish a new nesting territory. Therefore, the Service anticipates that no more than two bald eagles will taken as a result of this proposed action due to the construction and subsequent use of the proposed pier and mooring piles. The incidental take is expected to be in the form of harm and harassment.

REASONABLE AND PRUDENT MEASURES

The measures described below are nondiscretionary, and must be implemented by the Corps so that they become binding conditions of any permit issued to the applicant in order for the exemption in Section 7(o)(2) to apply. The Corps has a continuing duty to regulate the activity covered by this incidental take statement. If the Corps (1) fails to require the applicant to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit, and/or (2) fails to retain oversight to ensure compliance with these terms and conditions, the protective coverage of Section 7(o)(2) may lapse. The Service considers the following reasonable and prudent measures to be necessary and appropriate to minimize take of the bald eagle.

- Clearing of vegetation will be minimized to reduce impacts to the bald eagle and its habitat.

- Time-of-year restrictions will be implemented to minimize impacts to the bald eagle during the breeding season.

TERMS AND CONDITIONS

In order to be exempt from the prohibitions of Section 9 of the ESA, the Corps must comply with the following terms and conditions, which implement the reasonable and prudent measures described above and outline the required reporting/monitoring requirements. Monitoring is not required for this project because only a small number bald eagles are likely to be affected by the proposed project and the anticipated take is minimal. These terms and conditions are nondiscretionary.

1. Clearing of vegetation, dead or alive, associated with construction of the pier must be the minimum necessary to install the pier.

2. Construction, maintenance, earth moving, and clearing of vegetation associated with the pier and mooring piles will not occur between November 15 and July 15 of any year.

3. In years where the nest is determined to be inactive by the VDGIF, pier construction may commence from the time of the determination until November 15 of that year.

4. The applicant is required to notify the Service before initiation of construction and upon completion of the project at the address given below. All additional information to be sent to the Service should be sent to the following address:

Virginia Field Office
U.S. Fish and Wildlife Service
P.O. Box 99
6669 Short Lane

Gloucester, VA 23061
Phone (804) 693-6694
Fax (804) 693-9032

5. Care must be taken in handling any dead specimens of proposed or listed species that are found in the project area to preserve biological material in the best possible state. In conjunction with the preservation of any dead specimens, the finder has the responsibility to ensure that evidence intrinsic to determining the cause of death of the specimen is not unnecessarily disturbed. The finding of dead specimens does not imply enforcement proceedings pursuant to the ESA. The reporting of dead specimens is required to enable the Service to determine if take is reached or exceeded and to ensure that the terms and conditions are appropriate and effective. Upon locating a dead specimen, notify the Service at the address provided.

To the extent that this statement concludes that take of any threatened or endangered species of migratory bird will result from the agency action for which consultation is being made, the Service will not refer the incidental take of any such migratory bird for prosecution under the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. 703-712), or the Bald Eagle Protection Act of 1940, as amended (16 U.S.C. 668-668d), if such take is in compliance with the terms and conditions (including amount and/or number) specified herein.

V. REINITIATION - CLOSING STATEMENT

This concludes formal consultation on the action outlined in the Corps' request. As provided in 50 CFR 402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

If this opinion does not contain national security or confidential business information, the Service will provide copies to the appropriate state natural resource agencies ten business days after the date of this opinion.

FISH AND WILDLIFE COORDINATION ACT COMMENTS

The following comments constitute the report of the Service and the Department of the Interior on this project and are submitted under provisions of the FWCA.

As documented in the above biological opinion, the Service and the VDGIF worked extensively with the developer and the Corps to insure the protection of this shoreline and subsequently, protection of the bald eagle nest. In addition, the applicant has access to a community pier and boat ramp in very close proximity to his property. Therefore, the Service recommends that the Corps deny this permit application to insure the continued availability of this nesting area for bald eagles. If at some point, this nest structure is no longer in existence or the nest remains inactive for three years, the Service would support the proposed permit application.

The Service appreciates this opportunity to work with the Corps in fulfilling our mutual responsibilities under the ESA and FWCA. Please contact Cindy Schulz at (804) 693-6694, ext. 127 if you require additional information.

Sincerely,

Karen L. Mayne
Supervisor
Virginia Field Office

Enclosure

LITERATURE CITED

Buehler, D.A., J.D. Fraser, J.K.D. Seegar, G.D. Therres, and M.A. Byrd. 1991a. Effects of human activity on bald eagle distribution on the northern Chesapeake Bay. J. Wildlife Management 55(2):282-290.

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Knight, R. L and S. K. Knight. 1984. Responses of wintering bald eagles to boating activity. Journal of Wildlife Management 48:999-1004.

McGarigal, K., R. G. Anthony, and F. B. Isaacs. 1991. Interactions of humans and bald eagles on the Columbia River estuary. Wildlife Monograph 115.

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Virginia Department of Game and Inland Fisheries. 1994. Bald eagle management in Virginia: a comprehensive plan. Prepared by the Virginia Department of Game and Inland Fisheries, Richmond, VA.

Watts, B.D., K.W. Cline, and M.A. Byrd. 1994. The bald eagle in Virginia: an information booklet for land planners. Center for Conservation Biology, College of William and Mary, Williamsburg, VA.

APPENIDIX A

10-17-96	The Service received a request from the U.S. Army Corps of Engineers to review the proposed project for federally listed species.
12-09-96	The Service received the Corps' request to initiate formal consultation.
01-08-97	The Corps informed the Service that the community boat ramp and pier authorized by Corps' permit 96-0668 were to be used only by non-waterfront property owners.
01-14-97	The Service and the Virginia Department of Game and Inland Fisheries (VDGIF) visited the bald eagle nest and determined that it was not active at that time.
01-21-97	The Corps confirmed that the riprap proposed by the applicant was covered under Corps' permit 96-0668.
01-24-97	The Service contacted Bluegreen Properties to confirm that the community boat ramp and pier was available for use by all lot owners in the Twin Harbors development.
02-07-97	The Service sent a memorandum to the Corps confirming our discussions regarding extension of the time frame for formal consultation.
02-11-97	The Service sent a letter to the applicant indicating that the Corps requested that the Service wait to complete formal consultation and write a biological opinion until it was determined if the eagle nest was active during the 1996/1997 nesting season.
02-25-97	The Service received a telephone call from the Corps indicating that a portion of the eagle nest had fallen out of the tree.
03-12-97	The Service received a list of questions from the Corps regarding the proposed project and Twin Harbors development.
03-14-97	The Service responded to the Corps' 3-12-97 questions.
04-01-97	The Service met with the Corps and VDGIF to discuss the status of the bald eagle nest, the proposed project, and its impact on the eagle.
04-02-97	The Service received a telephone call from the Corps indicating that the nest was still in the tree. The Corps also stated that they had spoken with Mr. Marsh and he wanted the Corps to proceed with processing his permit application.

(CSchulz:4/2/97)
(filename:opinions/marsh/marshbo)

bcc: ARD-South, Region 5
Endangered Species Coordinator, Region 5
CBFO Reading File
Endangered Species Biologist, CBFO
Law Enforcement, Fredericksburg
Law Enforcement, Richmond
(Attn: Senior Resident Agent)

10 business days after the date of this letter, mail copies to:
VDGIF, Richmond
(Attn: Environmental Services)
VDGIF, Keith Cline
DNH, Richmond
(Attn: Tom Smith)